

15A Am. Jur. 2d Clerks of Court § 45

American Jurisprudence, Second Edition | May 2021 Update

Clerks of Court

Lonnie E. Griffith, Jr., J.D.

V. Powers and Duties

B. Distinguishing Ministerial and Judicial Functions

§ 45. Generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  66, 67

Generally, duties involving the exercise of judicial power are reserved to judges and may not be delegated to the clerk, although ministerial duties of a judge incident to judicial power, such as administering oaths, may be delegated to the clerk by statute or by court order.¹ One test of judicial versus ministerial functions is whether a statute imposes a duty upon the clerk to act in a certain way, leaving the clerk no discretion.² The distinction also pertains to whether the clerk's acts fall within one or more forms of immunity from liability.³

The entry of judgments for the record is a ministerial duty,⁴ as is providing notice of the entry of judgments,⁵ as distinguished from the rendition of the judgment and similar judicial acts of the court.⁶

© 2021 Thomson Reuters. 33-34B © 2021 Thomson Reuters/RIA. No Claim to Orig. U.S. Govt. Works. All rights reserved.

Footnotes

¹ [People v. Frontier Pacific Ins. Co.](#), 83 Cal. App. 4th 1289, 100 Cal. Rptr. 2d 433 (3d Dist. 2000).

² [Mikrut v. State](#), 212 Wis. 2d 859, 569 N.W.2d 765 (Ct. App. 1997).

³ § 59.

⁴ [Standard Microsystems Corp. v. Winbond Electronics Corp.](#), 179 Cal. App. 4th 868, 102 Cal. Rptr. 3d 140 (6th Dist. 2009), review denied, (Feb. 24, 2010).

⁵ [Coffer v. Wasson-Hunt](#), 281 S.W.3d 308 (Mo. 2009).

⁶ § 46.